

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

REFAAT ABUL HOSN,

Plaintiff,

Case No. 20-cv-13442

Hon. Matthew F. Leitman

v.

FLY BAGHDAD AIRLINE,

Defendant.

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**ORDER (1) ADOPTING RECOMMENDED DISPOSITION OF REPORT  
AND RECOMMENDATION (ECF No. 42), (2) DENYING PLAINTIFF’S  
MOTION FOR A DEFAULT JUDGMENT (ECF No. 27), (3) SETTING  
ASIDE DEFAULT (ECF No. 22), AND (4) DISMISSING THIS ACTION  
WITHOUT PREJUDICE**

In this action, Plaintiff Refaat Abul Hosn, appearing *pro se*, claims that Defendant Fly Baghdad Airline (“FBA”) has failed to pay him certain due and owing sales commissions. (*See* Compl., ECF No. 1.) On May 11, 2021, Hosn filed a request for the entry of a default against FBA. (*See* Req. for Default, ECF No. 21.) The Clerk of the Court entered that default on the same day. (*See* Default, ECF No. 22.) Now pending before the Court is Hosn’s motion for default judgment. (*See* Mot., ECF No. 27.)

The motion for default judgment was referred to the assigned Magistrate Judge for a report and recommendation (the “R&R”). (*See* Order, ECF No. 11.) Upon the Magistrate Judge’s review of the record, he “could not adequately

determine whether [Hosn] effected proper service of process on [FBA].” (Order, ECF No. 33, PageID.260.) The Magistrate Judge therefore issued an order to show cause that directed Hosn “to file a response explaining how the methods of service undertaken by him were proper and compl[ied] with” the Federal Rules of Civil Procedure (the “Show Cause Order”). (Show Cause Order, ECF No. 30, PageID.251.) The Magistrate Judge ordered Hosn to respond to the Show Cause Order by October 20, 2021, and he warned Hosn that if Hosn “fail[ed] to timely or adequately respond to [the Show Cause Order],” the Magistrate Judge would recommend that the default be set aside and that Hosn’s claims be dismissed without prejudice. (*Id.*, PageID.251-252.)

Hosn never filed a response to the Show Cause Order.<sup>1</sup> Accordingly, on February 1, 2022, the Magistrate Judge issued the R&R in which he concluded that Hosn’s “attempts at service were not proper” and did not comply with the Federal Rules of Civil Procedure. (R&R, ECF No. 42, PageID.298.) He therefore

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<sup>1</sup> On December 10, 2021, the Magistrate Judge extended the time for Hosn to respond to the Show Cause Order until January 6, 2022. (*See* Order, ECF No. 33, PageID.262.) In that order, the Magistrate Judge again warned Hosn, in bold type, that his “[f]ailure to timely or adequately respond to this Order will result in a recommendation that the May 11, 2021 Clerk’s Entry of Default be stricken, [Hosn’s] motion for default judgment be denied, and the matter be dismissed, without prejudice, for [Hosn’s] failure to serve [FBA] with the Summons and Complaint within 90 days as required by Federal Rule of Civil Procedure 4(m).” (*Id.*; emphasis in original.) Despite this extension of time, Hosn never responded to the Show Cause Order.

recommended that the Court (1) deny Hosn's motion for a default judgment, (2) set aside the default against FBA, and (3) dismiss this action without prejudice under Federal Rule of Civil Procedure 4(m) due to Hosn's failure to properly and timely serve FBA with the Summons and Complaint. (*See id.*, PageID.298-299.) At the conclusion of the R&R, the Magistrate Judge informed Hosn that if he wanted to seek review of the R&R, he needed to file specific objections with the Court within 14 days. (*See id.*, PageID.299-300.)

Hosn has not filed any objections to the R&R. Nor has Hosn contacted the Court to ask for additional time to file objections and/or respond to the Show Cause Order. The failure to object to an R&R releases the Court from its duty to independently review the matter. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985). In addition, the failure to file objections to an R&R waives any further right to appeal. *See Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987).

Accordingly, because Hosn has failed to file any objections to the R&R, **IT IS HEREBY ORDERED** that the Magistrate Judge's recommendation is **ADOPTED**.

**IT IS FURTHER ORDERED** that (1) Hosn's motion for a default judgment (ECF No. 27) is **DENIED**, (2) the Clerk's entry of default against FBA (ECF No. 22) is **SET ASIDE**, and (3) this action is **DISMISSED WITHOUT PREJUDICE**

under Federal Rule of Civil Procedure 4(m) due to Hosn's failure to properly and timely serve FBA with the Summons and Complaint.

**IT IS SO ORDERED.**

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: March 23, 2022

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on March 23, 2022, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

(313) 234-5126